

**EX. 4**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DARCY M. BLACK,

Plaintiff,

-vs-

BUFFALO MEAT SERVICE, INC., doing business  
as BOULEVARD BLACK ANGUS, also known as  
BLACK ANGUS MEATS, also known as  
BLACK ANGUS MEATS & SEAFOOD,  
ROBERT SEIBERT,  
DIANE SEIBERT,  
KEEGAN ROBERTS,

Defendants.

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Examination Before Trial of

DIANE SEIBERT, taken pursuant to the Federal Rules of Civil  
Procedure, in the law offices of GRECO TRAPP, PLLC, 1700  
Rand Building, 14 Lafayette Square, Buffalo, New York,  
taken on January 4, 2018, commencing at 9:55 A.M., before  
MARY ANN MORETTA, Notary Public.

1 A. Yes.

2 Q. How long did you work there?

3 A. Until, I believe, 1984.

4 Q. Why did you leave?

5 A. Bob bought the business and I had two children.

6 Q. What was the last position you held at Buffalo  
7 General?

8 A. I was a lab tech.

9 Q. When you said Bob bought the business, and who do  
10 you mean by Bob?

11 A. My husband.

12 Q. His full name is?

13 A. Robert Seibert.

14 Q. And when did he purchase the business?

15 A. October 1984.

16 Q. Okay. And were you an owner of the business at  
17 that time?

18 A. I guess I owned half if he owned -- you know, we  
19 were married, so yes, I would guess I was.

20 Q. Did you start working in the business immediately  
21 when it opened?

22 MR. OPPENHEIMER: Form.

23 THE WITNESS: It opened in 1975, so no.

1 BY MS. GRECO:

2 Q. Have you or anyone else given any employees of  
3 Black Angus Meat training relative to  
4 discrimination, harassmt, hostile environment  
5 or retaliation?

6 MR. OPPENHEIMER: Form.

7 THE WITNESS: I've done no training.

8 BY MS. GRECO:

9 Q. Is there any policy, written or otherwise, at  
10 Black Angus Meat regarding being to work on time?

11 A. There's no written policy. However, above the  
12 work schedule it says you get your checks on  
13 time, I expect you to be on time for work.

14 Q. Was that statement written above the work  
15 schedule when Miss Black worked there?

16 A. I don't know.

17 Q. Do you have any idea approximately when you put  
18 it there?

19 A. No.

20 Q. If an individual violated -- strike that. If an  
21 individual employee -- well, strike that. If an  
22 employee was going to be late, was there an  
23 expectation they would have to call in?

1 his ownership interest in the business?

2 A. I don't recall.

3 Q. How did employees become aware, if at all, that  
4 Keegan Roberts was an owner of the business?

5 A. They were not made aware.

6 Q. During the time Darcy Black was employed at Black  
7 Angus Meat, what were the job duties of Keegan  
8 Roberts?

9 A. I don't recall when Keegan became the store  
10 manager. I have no records in front of me. He  
11 filled orders --

12 Q. Before we go there.

13 MR. OPPENHEIMER: Let the witness finish her answer,  
14 please.

15 BY MS. GRECO:

16 Q. Okay.

17 A. He would have filled orders.

18 Q. Is that before he became store manager or after,  
19 I'm trying to find out?

20 A. Both.

21 Q. Okay. Go ahead.

22 A. He fills orders. He did some of the ordering,  
23 did deliveries. He did some meat cutting, took

1       most of the orders for deer processing,  
2       maintained equipment.

3   Q.   And what position did he hold prior to being a  
4       store manager?

5   A.   Just an employee.  He wrapped, filled orders, did  
6       deliveries and the other responsibilities that I  
7       just mentioned.

8   Q.   Okay.  So what -- when he became a store manager,  
9       did his responsibilities change in any way?

10  A.   Took over more of the responsibilities of  
11       ordering product, maintaining inventory, more  
12       aware of pricing structures, advertising.

13  Q.   Did he have any responsibility with regard to  
14       other employees once he became a store manager?

15  A.   Yes.

16  Q.   What was that?

17  A.   Overseeing, supervisory position.

18  Q.   At the time that Keegan Roberts was a -- during  
19       the time that Darcy Black was employed at Black  
20       Angus Meat, was Keegan Roberts ever her  
21       supervisors, meaning did he ever oversee her  
22       work?

23  A.   Yes.

1 A. Mark can cut, Keegan can cut, Bob can cut, Jamie  
2 can cut.

3 Q. So did they have certain hours they were assigned  
4 to be a butcher?

5 A. Assigned, no.

6 Q. That's what I'm trying to find out. Was there  
7 any other person that was assigned the job of a  
8 butcher, meaning the butcher job?

9 A. Tommy is our main cutter.

10 Q. Is there special skills in being the main cutter?

11 A. He was in charge of the product in the building,  
12 what was put in the counter for the day. He was  
13 in charge of the cooler.

14 Q. And approximately how many hours a week did Mr.  
15 Howells work, Thomas Howells?

16 A. Beginning of the month, he's probably, you know,  
17 thirty, around the thirty mark. The end of the  
18 month, he's probably in the twenties.

19 Q. It's fair to say that when Darcy Black was  
20 working, she would be able to see him during the  
21 time that he was there?

22 MR. OPPENHEIMER: Form.

23 BY MS. GRECO:

1 Q. -- strike that. Let me finish the question.  
2 It's okay if you say no or yes, whatever the  
3 answer is, but I have to finish the question.

4 During the time that Darcy Black was  
5 employed at Black Angus Meat, what percent of  
6 your customers were inner-city customers?

7 MR. OPPENHEIMER: Form.

8 THE WITNESS: I don't know.

9 BY MS. GRECO:

10 Q. Would there be any way to determine what percent  
11 were inner-city customers?

12 A. No.

13 Q. Would you agree that Robert Seibert, Diane  
14 Seibert and Keegan Roberts have the primary  
15 authority to hire, fire and make salary and  
16 benefit determinations?

17 MR. OPPENHEIMER: Form.

18 THE WITNESS: Yes.

19 BY MS. GRECO:

20 Q. During the time Darcy Black was employed at Black  
21 Angus Meat, were there any job titles?

22 A. Store manager.

23 Q. Was there any policy, written or otherwise, at



1 A. Yes.

2 Q. Would you agree with me that's racially  
3 offensive?

4 A. Yes.

5 Q. If an employee was dating or married to a black  
6 male, female, and another employee said to her  
7 that she needs to be with one of her own kind,  
8 would you agree with me that's offensive?

9 A. Yes.

10 Q. Would you agree with me that that's  
11 discriminatory?

12 A. Yes.

13 Q. If a female employee was dating a black male and  
14 an employee asked her what's wrong with white  
15 guys, would you agree with me that's offensive?

16 A. Yes.

17 Q. Would you agree with me that's discriminatory?

18 A. Yes.

19 Q. If an employee was dating a black male and  
20 another employee told her that her boyfriend was  
21 using her for her good credit score, would you  
22 agree with me that's offensive?

23 A. Yes.

1 Q. Would you agree with me that's discriminatory?

2 A. No.

3 Q. Why not?

4 A. Credit score doesn't have to do with  
5 discrimination.

6 Q. Does it imply to you -- when you hear that, what  
7 I just said to you, does it imply to you because  
8 her boyfriend was black, he would need her credit  
9 score because he couldn't get one of his own?

10 A. No.

11 Q. Would you agree with me that if a female employee  
12 -- all these instances we're talking about a  
13 white female employee was dating a black male,  
14 and an employee said to her that that male was  
15 using her for her name because black men always  
16 cheat and he probably has a lot of girlfriends,  
17 would you agree with me -- would you -- do you  
18 believe that that is offensive?

19 A. Yes.

20 Q. Do you believe that's discriminatory?

21 A. Using her for her name? No.

22 Q. Because black men always cheat and he probably  
23 has a lot of girlfriends?

1 MR. OPPENHEIMER: Form.

2 THE WITNESS: One more time.

3 BY MS. GRECO:

4 Q. Would you agree with me that when someone is  
5 accused of something, in order to protect their  
6 job, they might lie?

7 MR. OPPENHEIMER: Form.

8 THE WITNESS: I don't know.

9 BY MS. GRECO:

10 Q. Is it possible --

11 MR. OPPENHEIMER: Form.

12 MS. GRECO: I didn't finish.

13 BY MS. GRECO:

14 Q. In your experience as a business owner for many  
15 years and in your own experience in working as an  
16 employee of a large employer, Buffalo General  
17 Hospital, were you ever aware of any employee at  
18 any time lying?

19 MR. OPPENHEIMER: Form.

20 THE WITNESS: Am I aware of an employee lying? No.

21 BY MS. GRECO:

22 Q. Do you believe it's possible that an employee  
23 could lie?

1 MR. OPPENHEIMER: Form.

2 BY MS. GRECO:

3 Q. Even someone who might be a nice person?

4 A. Yes.

5 Q. Did you ever consider the possibility that Darcy  
6 Black was telling the truth and Jamie Lapress  
7 could have lied?

8 A. No.

9 Q. Why not?

10 A. Because we don't talk like that there. Those  
11 words never left his lips and I believe him.

12 Q. Why don't you believe Darcy Black?

13 MR. OPPENHEIMER: Form. Asked and answered.

14 BY MS. GRECO:

15 Q. You can answer.

16 A. I don't believe it happened.

17 Q. Why don't you believe Darcy Black?

18 A. It's not the type of environment that we harbor  
19 there. You don't understand. We are a small  
20 company. The employees actually like each other.  
21 Okay. They don't -- they are not trying to  
22 belittle each other. It's not the way it  
23 operates there at all. Not even close.

1           about the use of marijuana during their break  
2           time at your company?

3   A.   No.

4   Q.   Did anyone ever indicate to you that comments  
5           were made --

6   MR. OPPENHEIMER:   How are you doing?

7   THE WITNESS:   All right.

8   MR. OPPENHEIMER:   Do you need a break?

9   THE WITNESS:   No, I'm okay.

10   MR. OPPENHEIMER:   Let us know if you need a break.

11           It's around noon.   Off the record.

12                       (Discussion off the record.)

13   BY MS. GRECO:

14   Q.   Would it ever be appropriate in the workplace for  
15           an employee in reference to an African-American  
16           customer say how can they have nice cars and get  
17           food stamps?

18   A.   No.

19   Q.   Could that -- would you determine that was  
20           discriminatory?

21   A.   Yes.

22   Q.   Would it ever be appropriate for an employee to  
23           say regarding African-American customers that

1 at Black Angus Meat?

2 A. No.

3 Q. Would you agree with me that if a female employee  
4 was told that she's got a nice ass by a male  
5 employee or owner, that that would be offensive?

6 A. What was the last word?

7 MS. GRECO: Can you read it.

8 (Whereupon, the above-requested question was  
9 then read back by the reporter.)

10 THE WITNESS: Or owner?

11 BY MS. GRECO:

12 Q. Yes.

13 A. It's offensive.

14 Q. Would you agree with me that could be  
15 discriminatory -- that it's discriminatory?

16 A. Yes.

17 Q. Would you agree with me that if a female employee  
18 was told by a male employee or owner that her  
19 headlights are on, that that's offensive?

20 A. Yes.

21 Q. And what do you take the headlights are on to  
22 mean?

23 A. Breasts.

1 Q. And would you agree with me that that is  
2 discriminatory?

3 A. Yes.

4 Q. Would you agree with me that if a male employee  
5 or owner said to a female employee oh, look at  
6 that cleavage, is that discriminatory?

7 A. Yes.

8 Q. Would you agree with me that's offensive?

9 A. Yes.

10 Q. Would you agree with me if a male employee or  
11 owner said to a female employee does the carpet  
12 match the drapes, that that's offensive?

13 A. Yes.

14 Q. And what does it mean to you, does the carpet  
15 match the drapes?

16 A. Hair, pubic hair.

17 Q. Does it match your regular hair on your head?

18 A. Yes.

19 Q. Would you agree with me that that's  
20 discriminatory?

21 A. Yes.

22 Q. And that could create a hostile environment?

23 MR. OPPENHEIMER: Form. You are asking for a legal

1 conclusion.

2 BY MS. GRECO:

3 Q. Do you know what the term hostile environment  
4 means?

5 MR. OPPENHEIMER: Form.

6 BY MS. GRECO:

7 Q. Do you know what the term hostile environment  
8 means in your capacity as a business owner?

9 MR. OPPENHEIMER: At it's defined in a statute?

10 MS. GRECO: As she understands it.

11 MR. OPPENHEIMER: In general conversation?

12 MS. GRECO: She is an owner.

13 MR. OPPENHEIMER: Are you asking her for a legal  
14 conclusion or what the words hostile environment  
15 mean in conversation?

16 BY MS. GRECO:

17 Q. Do you understand in terms of being an employer,  
18 what a hostile environment means? If you don't,  
19 say you don't.

20 A. No.

21 Q. All right. Even today after the lawsuit that is  
22 pending against you, is it fair to say you have  
23 no understanding what a hostile environment is?



1 as niggers, that stuff like this happens all the  
2 time?

3 A. I don't think that's what happened.

4 MS. GRECO: Could you read the question.

5 (Whereupon, the above-requested question was  
6 then read back by the reporter.)

7 MR. OPPENHEIMER: Okay. One more time. I'm really  
8 confused by which way we are --

9 BY MS. GRECO:

10 Q. Would it ever be appropriate for Robert Seibert,  
11 or any other employer, meaning you or Robert --  
12 or, Keegan Roberts to tell Darcy Black, who has  
13 biracial children, that another employee  
14 referring to her children as niggers, that stuff  
15 like this happens all the time?

16 MR. OPPENHEIMER: Form.

17 THE WITNESS: No.

18 BY MS. GRECO:

19 Q. Would it ever be appropriate for Robert Seibert  
20 or any other owner or manager of Black Angus  
21 Meat, meaning either you or Keegan Roberts, to  
22 say to Darcy Black that reference to her children  
23 as niggers, well, it's something that happens in

1 Q. Not the applicant, the application.

2 A. The application, sometimes. If they were busy up  
3 front, they would just leave it up front.

4 Q. If they weren't busy, what would they do?

5 A. They may bring it to me.

6 Q. Would you ever look out the window to see the  
7 person?

8 A. Maybe. There's no general rule.

9 Q. Did you ever ask anyone if the applicant was  
10 black or white?

11 A. No.

12 Q. Do you recall during the time Darcy Black was an  
13 employee at Black Angus Meat, did you interview  
14 -- strike that. How did you decide who to  
15 interview?

16 A. Previous experience, number one. I like college  
17 kids. Somebody with some experience. Somebody  
18 who could work the hours I was looking for.

19 Q. You said the number one was working the hours --

20 A. Hours I was looking for.

21 Q. Do you recall any African-American employee that  
22 you interviewed from the time Darcy Black was  
23 employed with the company?

1 MR. OPPENHEIMER: Form.

2 BY MS. GRECO:

3 Q. You can answer.

4 A. Did I create the job titles?

5 Q. Yes.

6 A. I probably would have indicated where they  
7 worked, if they worked on the counter, if they  
8 work in the pack room, if they did cleanup, if  
9 they -- you know, I'm not sure I did all of  
10 these.

11 Q. Let's look at Darcy Black.

12 A. Okay.

13 Q. You state her job title was front counter.

14 MR. OPPENHEIMER: Form.

15 THE WITNESS: That's what she was hired for.

16 BY MS. GRECO:

17 Q. What was her job title?

18 A. We don't go by job titles there. That's why the  
19 whole thing is very difficult because we don't  
20 use job titles. We hire employees to do work, to  
21 do labor. We are not specific when they are  
22 hired. If I ask someone to -- if something is on  
23 the floor or if the garbage is full, would you

1 mind taking the garbage out. It might not be  
2 part of their job description, but I would expect  
3 them to maybe pick up whatever is on the floor or  
4 empty the trash or whatever that might be and it  
5 may not be their job title.

6 Q. Is front counter different than a packer?

7 A. The front counter is in the front of the store.  
8 We fill orders in the back of the store.

9 Q. In preparing or reviewing this document, did  
10 anyone ask you to -- strike that. In reviewing  
11 this document, you agree that Darcy's job title  
12 was front counter?

13 MR. OPPENHEIMER: Form.

14 THE WITNESS: We didn't have job titles. I tried to  
15 establish where they worked the most. Everybody  
16 wants job titles. You guys want job titles and  
17 everything. We didn't have job titles. Okay.  
18 She was hired to work on the counter. A counter  
19 person might get a customer that needs a pack  
20 filled. They are going to have to go from the  
21 front counter to the back to fill a pack, to fill  
22 an order.

23 BY MS. GRECO:

1 she did not just work in the pack room.

2 Q. So they were interchangeable, basically?

3 MR. OPPENHEIMER: Form.

4 THE WITNESS: Yes.

5 BY MS. GRECO:

6 Q. That was the idea of a small business, to have  
7 these positions that interchange?

8 MR. OPPENHEIMER: Form.

9 BY MS. GRECO:

10 Q. You hired these people to be interchangeable?

11 A. For some things.

12 Q. She could be in the pack room packing for, I  
13 think you said -- I don't want to put words in  
14 your mouth -- fourteen days or something because  
15 that was the busy time of the month?

16 MR. OPPENHEIMER: Form.

17 BY MS. GRECO:

18 Q. Is that true?

19 A. She may be in the pack room most of the day.

20 MR. OPPENHEIMER: Form.

21 BY MS. GRECO:

22 Q. So Darcy Black worked in the pack room?

23 A. As part of her responsibilities, yes.

1 Q. Okay. And it was a significant part of her  
2 responsibilities?

3 A. Not at the end of the month.

4 Q. Well --

5 A. No.

6 Q. How about --

7 A. We hired employees not to do a specific job. I  
8 didn't want to hear it's not my job description.  
9 Okay. We don't have job descriptions. We don't  
10 have job titles. You are an employee. If this  
11 is what I need help with today, if we have fifty  
12 deliveries that need to get filled, I need four  
13 people in the pack room filling the orders so  
14 that they can get delivered. When the packs are  
15 filled, if it's one o'clock, two o'clock and they  
16 still are working until three, they would go up  
17 to the front, they might wrap, they might wait on  
18 customers. It's whatever needed to be done.

19 Q. Okay. Did you ever have any restrictions on  
20 applicants relative to position? For example, if  
21 you were looking for someone to organize freezers  
22 or put loads away which required heavy lifting,  
23 would you discard females, as a rule, or older

1 Q. In the year 2014, did Katie Bidell work for you?

2 A. I don't recall.

3 Q. Did Katie Bidell work for you in the year 2015?

4 A. No.

5 Q. Did she work for you in the year 2016?

6 A. No.

7 Q. Has she worked for you yet this year?

8 A. No.

9 MR. OPPENHEIMER: This year now is 2018. Do you mean  
10 2017?

11 BY MS. GRECO:

12 Q. The end of 2017 and two days of 2018.

13 A. No.

14 Q. And did you permit Sean Round to come in late on  
15 Saturdays or leave early in the times he played  
16 football?

17 A. There was a few week period that yes, we did.

18 Q. Was that during the summer and fall of each year,  
19 football season?

20 A. Football season would not be in the wintertime.

21 Q. Even though it was a busy time for you?

22 A. He was gone for, yes, two hours, come back. We  
23 did a lot of that.

1 Q. Now, your employees that work hourly --

2 A. Yes.

3 Q. -- how many breaks do they get?

4 A. Everybody is entitled to a fifteen-minute break  
5 in the morning, a fifteen-minute break in the  
6 afternoon and half hour lunch for which they are  
7 paid.

8 Q. Okay. And are they required to take their lunch  
9 break?

10 A. No.

11 Q. And what happens if they work through their lunch  
12 break?

13 A. They are paid.

14 Q. Are they paid extra at the end of the day or --

15 A. Someone signs in at seven a.m. in the morning and  
16 then signs out at three o'clock in the afternoon,  
17 they are paid eight hours whether they took their  
18 breaks or not. They are entitled to a half-hour  
19 lunch.

20 Q. Is it your testimony that each employee is  
21 entitled to a one half-hour lunch?

22 A. They are entitled to a half-hour lunch.

23 Q. If they have a half-hour lunch, do they have to



1 Q. So just tell me and I'll ask questions. Go  
2 ahead.

3 A. Workmen's Comp, if someone is injured. Vacation  
4 pay, insurance.

5 Q. What type of insurance?

6 A. Medical insurance.

7 Q. Okay. Anything else?

8 A. That's what comes to my mind right now.

9 Q. So with regard to medical insurance, was that  
10 available to all employees?

11 A. Yes.

12 Q. Do you recall Darcy Black asking to use medical  
13 insurance?

14 A. No. It was -- let me clarify one thing. It was  
15 for full-time employees, not part-time employees.

16 Q. Okay. Who are full-time employees?

17 A. I would have to go through the list.

18 Q. Was Darcy Black a full-time employee?

19 A. I don't think she was hired as a full-time  
20 employee.

21 Q. Was she ever a full-time employee?

22 A. She changed that all the time. She used to come  
23 and say my benefits are getting reduced because

1       paying their health insurance?

2       A.   It said medical on it.

3       Q.   Every one of these that we were provided that say  
4       medical, Black Angus Meat was paying toward the  
5       medical insurance?

6       MR. OPPENHEIMER:   Form.

7       BY MS. GRECO:

8       Q.   You can answer.

9       MR. OPPENHEIMER:   What is the these that you are  
10      referring to in the question?

11      MS. GRECO:   Documents we were provided.

12      MR. OPPENHEIMER:   Without specificity, you are just  
13      referring to these?

14      BY MS. GRECO:

15      Q.   You told me I could look at the records and find  
16      them.   What records are you talking about?

17      A.   Payroll records.

18      Q.   And in the payroll records it indicates an amount  
19      under deductions, it says MEDIC.   Is that what  
20      you mean by medical insurance?

21      A.   Yes.

22      Q.   So would it be fair to say that whoever had the  
23      deductions with medical would have been those who

1           you were paying medical for?

2   MR. OPPENHEIMER:   Form.

3   BY MS. GRECO:

4   Q.   At least, in part?

5   MR. OPPENHEIMER:   Form.

6   THE WITNESS:   Yes.

7   BY MS. GRECO:

8   Q.   How much did you pay towards benefits?

9   A.   I can't give you an amount.   It changes every  
10       year.   The amounts change.   Typically, they pay  
11       sixty percent, we pay forty, except Debbie.   Bob  
12       and mine are paid for a hundred percent.

13   Q.   So sixty percent and they pay forty?

14   A.   No.   Other way around, they pay sixty, we pay  
15       forty.

16   Q.   Except for Debbie?

17   A.   Debbie.

18   Q.   Which you pay a hundred percent?

19   A.   No, we don't pay a hundred percent.

20   Q.   How much do you pay for Debbie?

21   A.   Well, it depends.   When she first had medical  
22       insurance, she was on a family coverage.   It was  
23       about, at the high, I think it was probably

1 MR. OPPENHEIMER: Form.

2 THE WITNESS: I'm in the office. I'm not around  
3 other employees.

4 BY MS. GRECO:

5 Q. Okay. Were you aware of employees using their  
6 cell phone to receive and send texts in the  
7 workplace during working hours?

8 A. No.

9 Q. Was it a violation of any workplace policy to  
10 send text messages or receive text messages  
11 during working hours and non-breaks?

12 A. The only thing that would be frowned upon is  
13 excess in anything. Moderation in anything is  
14 okay. Excess is where things get scrutinized.

15 Q. Were you aware of Darcy Black or anyone else  
16 telling anyone in management that Mr. Leible was  
17 late regularly?

18 MR. OPPENHEIMER: Form.

19 BY MS. GRECO:

20 Q. From twenty minutes to sometimes up to an hour?

21 MR. OPPENHEIMER: Form.

22 THE WITNESS: He was talked to.

23 BY MS. GRECO:

1 Q. Did it continue afterwards?

2 A. Mark is not a timely person. Might be five  
3 minutes, might be twenty minutes. It's his  
4 nature.

5 Q. How do you know that he was not there on time?

6 A. His time card.

7 Q. Was Mark Leible scheduled off on Saturdays at the  
8 end of the month?

9 A. Usually he's my meat cutter on Saturday.

10 Q. What specifically are you referring to when you  
11 say that Mark Leible has a culinary background?

12 A. His previous experience. He worked at a cafe.  
13 He worked at Thaxton's, went to school for a  
14 short amount of time.

15 Q. Looking at his resume, do you consider him to  
16 have a stellar resume in the food --

17 A. I wouldn't call it stellar.

18 Q. -- industry?

19 A. He's had very good knife skills. And if you are  
20 not aware what knife skills are, there is an art  
21 to it.

22 Q. When did he start making sausage for you?

23 A. I don't recall.

1 BY MS. GRECO:

2 Q. Do you know how much Mr. Leible's hourly rate is  
3 at this time?

4 A. Seventeen.

5 Q. Does Mr. Leible receive health insurance?

6 A. Yes.

7 Q. Is Mr. Leible guaranteed an average of forty  
8 hours a week?

9 A. No.

10 Q. I would like you to look at Mr. Lapress. Did Mr.  
11 Lapress have any special skills?

12 MR. OPPENHEIMER: Form.

13 BY MS. GRECO:

14 Q. You can answer.

15 A. No.

16 Q. Okay. And did he have any difficulty wrapping  
17 meat?

18 A. Yes.

19 Q. What kind of difficulty did he have?

20 A. He wasn't good at it.

21 Q. Was he taken off that job because he wasn't good  
22 at it?

23 A. He wasn't hired for that job.

1 A. Yes.

2 Q. Okay. Then I would like to refer you to Exhibit  
3 130 -- I'm sorry. I meant Exhibit 129. This is  
4 a payroll pre-check writing report for the period  
5 ending 12/26/10. And you'll see at that point  
6 she was working forty hours, making four hundred  
7 forty dollars, which is eleven dollars an hour?

8 A. Uh-huh.

9 Q. If you look at the third sheet of that document,  
10 which is payroll ending 1/2/11, she worked forty  
11 hours and made four hundred and twenty dollars,  
12 which is ten dollars and fifty cents. Do you  
13 know why her pay was lowered?

14 MR. OPPENHEIMER: Form.

15 THE WITNESS: The only thing I can say is this is  
16 when we went from me doing the payroll to a  
17 payroll company doing the payroll because the  
18 sheet is different. ComputerSearch did this.  
19 There might have been an error on her rate.

20 BY MS. GRECO:

21 Q. Well, if you go to Exhibit 131 for the first  
22 page, which is the payroll ending period  
23 10/30/2011, she was working forty hours and made

1 A. That would be a question for Keegan.

2 Q. I'll ask him. I just want to know what you know.

3 A. I wasn't there.

4 Q. Nor did you learn it from anybody, that you can  
5 recall?

6 A. I learned it from Keegan. He called me.

7 Q. But you don't recall when that was or how with  
8 respect to the timeline?

9 A. I don't have the date, no.

10 Q. Do you have any notes that would help refresh  
11 your memory?

12 A. No.

13 Q. Let's look at -- who would determine whether  
14 Darcy Black would get a raise?

15 A. It would be joint.

16 Q. Among whom?

17 A. Probably the three of us, Bob and Keegan and  
18 myself.

19 Q. So for every time Darcy Black got a raise or did  
20 not get a raise, that would have been a  
21 determination among the three of you, by that I  
22 mean, you, Robert Seibert and --

23 A. I'm not sure we would have called a big meeting,



1 Exhibit 160 -- hold on. I'm sorry. Looking at  
2 Exhibit 196, payroll from week ending 5/15/05.  
3 And do you see that Darcy Black -- at this point  
4 it was Hoefert worked forty hours and made three  
5 hundred dollars --

6 A. Yes.

7 Q. -- seven fifty an hour? Do you recognize that as  
8 seven fifty an hour?

9 A. Yes.

10 Q. Okay. Going now to Exhibit 198, payroll  
11 pre-check writing report period ending 1/1/06,  
12 the second one is ending 1/8/06. Do you see as  
13 of 1/8/06 she worked forty hours and made three  
14 hundred twenty dollars, which was eight dollars  
15 an hour?

16 A. Yes.

17 Q. Going to Exhibit 199. Looking at the -- it has  
18 payroll pre-check writing report ending 12/24/06  
19 and 12/31/06. 12/31/06 she worked thirty-one  
20 hours and made two hundred eighty-nine dollars.  
21 Do you recognize that as a fifty-cent increase to  
22 eight fifty an hour?

23 A. Yes.

1 Q. Going now to Exhibit 201, the week ending 5 --  
2 4/30/07 and 5/6/07. Do you see 5/6/07 she worked  
3 forty hours and made three hundred sixty dollars,  
4 which would have been a fifty-cent increase to  
5 nine dollars an hour?

6 A. Yes.

7 Q. Going to Exhibit 203 for pay period ending  
8 7/28/08 and 8/3/08. Do you see in 8/3/08 she  
9 worked forty hours and made three hundred eighty  
10 dollars, which would be a fifty-cent increase to  
11 nine dollars and fifty cents?

12 A. Yes.

13 Q. Going to Exhibit 205 for payroll pre-checking --  
14 writing for check date 6/5/09 and check date  
15 6/12/09. Do you see on 6/12/09 she worked forty  
16 hours and made four hundred dollars?

17 A. Which one are we on here?

18 Q. 205. The last page. She worked forty hours and  
19 made four hundred dollars?

20 A. Yes.

21 Q. That would be a fifty-cent increase to ten  
22 dollars an hour?

23 A. Yes.